

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1837

September Term, 2013

HARLOW SAILS

v.

STATE OF MARYLAND

Berger,
Arthur,
Reed,

JJ.

Opinion by Berger, J.

Filed: July 20, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 1983, a jury sitting in the Circuit Court for Prince George’s County convicted appellant, Harlow Sails (“Sails”), of murder in the first degree of a police officer, Raymond Hubbard, as well as two counts of robbery with a dangerous and deadly weapon, and two counts of use of a handgun in the commission of a felony or crime of violence. *Sails v. State*, No. 603, September Term, 1983, slip op at 1 (filed Jan. 30, 1984). Sails was sentenced to a term of life imprisonment, for first-degree murder, and consecutive terms totaling seventy years’ imprisonment for the other offenses.

In 2013, Sails filed a motion to correct an illegal sentence, contending that his sentences exceeded the maximum authorized by law; that the jury’s general verdict was ambiguous and did not provide sufficient guidance for the sentencing court; and that the circuit court impermissibly permitted a constructive amendment to the indictment, resulting in a conviction and imposition of sentence for an uncharged offense. After the circuit court denied that motion without a hearing or a statement of reasons for its action, Sails noted this appeal, raising the following issues:

- I. Did the court below err by failing to give a statement of reasons for denying the prayer below regarding the sentence exceeds the maximum authorized by law?
- II. Were the convictions and sentences so ambiguous as to impart that appellant was convicted of crimes that he was never charged with in his indictment?
- III. Was there an impermissible constructive amendment of the charging document leading to an ambiguous verdict and improper sentence?

Because the notice of appeal was filed more than 30 days after the entry of judgment, we must dismiss the appeal.

DISCUSSION

Maryland Rule 8-202 provides in pertinent part:

(a) **Generally.** Except as otherwise provided in this Rule or by law, the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken. In this Rule, “judgment” includes a verdict or decision of a circuit court to which issues have been sent from an Orphans’ Court.

* * *

(f) **Date of Entry.** “Entry” as used in this Rule occurs on the day when the clerk of the lower court enters a record on the docket of the electronic case management system used by that court.

The order of the circuit court denying Sails’s motion was entered on September 10, 2013. Sails’s notice of appeal was filed on October 18, 2013. According to Rule 8-202(a), the notice of appeal had to be filed no later than October 10, 2013 (a Thursday, and not a holiday) to be timely. Plainly, the notice of appeal was untimely. Because “we must dismiss a case *sua sponte* on a finding that we do not have jurisdiction,” *Miller & Smith at Quercus, LLC v. Casey PMN, LLC*, 412 Md. 230, 240 (2010), and the “failure to file a notice of appeal within the 30-day deadline of Rule 8-202(a) is a jurisdictional defect,” we have no jurisdiction to consider this appeal, and we therefore must dismiss it. *Nationwide Mut. Ins.*

Co. v. Regency Furniture, Inc., 183 Md. App. 710, 740 n.16 (2009); *see also Carter v. State*, 193 Md. App. 193 (2010) (applying this rule in criminal matters).

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.